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8 Attorneys for Defendants
9 BAYVIEW LOAN SERVICING, LLC,
10 AKA BAYVIEW AND MARILYN CORO

11 UNITED STATES DISTRICT COURT
12 SOUTHERN DISTRICT OF CALIFORNIA

13
14 PAMELA CHYBA

15 Plaintiff,

16 vs.

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18 BAYVIEW LOAN SERVICING,
19 LLC, AKA BAYVIEW; DAVID
20 ERTEL; AND MARILYN CORO,

21 Defendants.
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CASE NO. 3:14-cv-01415-BEN-BLM

DEFENDANT BAYVIEW LOAN
SERVICING, LLC'S NOTICE OF
MOTION AND MOTION FOR
SANCTIONS PURSUANT TO F.R.C.P
37(d)

Judge: Roger T. Benitez

Date: July 18, 2016

Time: 10:30 a.m.

Room: 5A

1 TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE THAT on July 18, 2016, at 10:30 a.m., or as soon
3 thereafter as counsel may be heard, in Courtroom 5A, located at 221 West Broadway,
4 San Diego, CA 92101, Defendant BAYVIEW LOAN SERVICING, LLC, AKA
5 BAYVIEW ("Bayview") will and hereby does move the Court, pursuant to Rule 37(d)
6 of the Federal Rules of Civil Procedure, for sanctions against plaintiff Pamela Chyba
7 ("Plaintiff") for failing to appear for deposition.

8 Please take notice that Bayview is seeking monetary sanctions in the amount of
9 \$1,500.00, as well as seeking dismissal of Plaintiff's TCPA claim pursuant to Rule
10 37(d)(3) and 37(b)(2)(A)(i)-(v), which provides that: (i) the court may order that
11 designated facts be taken as established for purposes of the action, as the prevailing
12 party claims; (ii) the court may prohibit the disobedient party from supporting or
13 opposing designated claims or defenses, or from introducing designated matters in
14 evidence; (iii) the court may strike pleadings in whole or in part; (iv) the court may
15 stay further proceedings until the order is obeyed; (v) the court may dismiss the action
16 or proceeding in whole or in part; and (vi) the court may render a default judgment
17 against the disobedient party.

18 This Motion is based on this Notice of Motion and Motion, Memorandum of
19 Points and Authorities in Support of Motion, the Declaration of Cathy Knecht
20 Robinson, the pleadings and papers on file in this action, and upon such oral argument
21 as may be presented at the hearing on this Motion.

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23 BARRY, GARDNER & KINCANNON,
24 A Professional Corporation

25 Dated: June 6, 2016

26 By: /s/ Jeffrey B. Gardner, Esq.
27 Jeffrey B. Gardner, Esq.
28 Cathy Knecht Robinson, Esq.
Attorneys for Defendants
BAYVIEW LOAN SERVICING, LLC
and MARILYN CORO

PROOF OF SERVICE

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 2214 Faraday Avenue, Carlsbad, California, 92008.

The foregoing document described as DEFENDANTS BAYVIEW LOAN SERVICING, LLC AND MARILYN CORO'S NOTICE OF MOTION AND MOTION FOR SANCTIONS PURSUANT TO F.R.C.P 37(d) will be served on the interested parties in this action as follows:

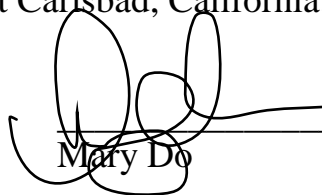
I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") – The foregoing document will be served by the court via NEF and hyperlink to the document. As of June 6, 2016, the following are those that are currently on the list to receive e-mail notices for this case:

Pamela Chyba
discoverthefraud@gmail.com

Jeffrey B Gardner
Jeff.Gardner@sbgk.com,mary.do@sbgk.com

[X] (FEDERAL) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 6, 2016, at Carlsbad, California.



Mary Do